

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

VOTING: Chief Judge Lamberth, Judges Sullivan, Kennedy, Roberts, Huvelle, Walton, Bates, Howell, Wilkins, Boasberg, Jackson, Kessler.

It is this 6th day of July, 2011 ordered that effective immediately Local Civil Rule **85** was amended as follows:

[New language in bold and underlined; old language stricken]

LCvR 85

**FILINGS UNDER THE DODD-FRANK WALL STREET
REFORM & CONSUMER PROTECTION ACT**

This rule governs petitions by the Secretary of the Treasury (“Secretary”) under the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Act”), Pub.L. No. 111-203, 124 Stat. 1376, 1444 (Jul. 21, 2010), 12 U.S.C. § 5382(a)(1), for orders authorizing the Secretary to appoint the Federal Deposit Insurance Corporation as receiver for financial companies.

(a) FILING OF THE PETITION

A petition under this Act must contain all relevant findings and recommendations under the Act, and must be filed under seal. The original and one copy of the petition and a PDF version on a CD-ROM shall be tendered to the Clerk. The original and copy of the petition and all related documents shall be submitted securely in an envelope/box appropriate to accommodate the documents. The envelope/box containing such documents shall have a conspicuous notation as follows: “DOCUMENT UNDER SEAL.”

(b) NOTICE TO THE COURT

~~At least 48 hours prior to filing the petition,~~ The Secretary shall provide written notice under seal to the Clerk of the Court that a petition will likely be filed with the Court, **and to the extent feasible, the notice will be provided at least 48 hours prior to filing the petition.**

(c) NOTICE TO THE FINANCIAL COMPANY

A petition shall be accompanied by a certificate of counsel or other proof satisfactory to

the Court, stating (1) that actual notice of the time of filing the petition, and copies of all papers filed to date or to be presented to the Court at any hearing, have been or are being furnished to the financial company; or (2) the efforts made by the Secretary to give such notice and furnish such copies. The certificate shall also contain the name and contact information of the individual at the financial company to whom notice was given and upon whom service was effected.

(d) OPPOSITION TO THE PETITION

The financial company named in the petition may file an opposition to the petition under seal and may appear at a hearing to oppose the petition. The opposition shall be served on the Secretary by the most expeditious means available.

(e) PROPOSED ORDER

Each petition and opposition shall be accompanied by a proposed order.

(f) ASSIGNMENT OF THE PETITION

The petition shall be assigned to the Chief Judge or Acting Chief Judge .

(g) CONSIDERATION OF PETITION: NOTIFICATION OF DECISION

In considering a petition, the Court shall, on a confidential basis and without public disclosure, determine whether the Secretary's decision that the covered financial company (1) is in default or in danger of default and (2) satisfies the definition of a financial company under the Act is arbitrary and capricious.

- (1) Upon a finding that the Secretary's determination is not arbitrary and capricious, the Court shall issue an order immediately authorizing the Secretary to appoint the Corporation as receiver of the covered financial company.
- (2) Upon a finding that the Secretary's determination is arbitrary and capricious, the Court shall provide immediately for the record a written statement of each reason supporting the determination of the Court, and shall provide copies thereof to the Secretary and the covered financial company, and must afford the Secretary an immediate opportunity to amend and refile the petition.

(h) TIMING OF DECISION

The Court shall attempt to rule on a properly filed petition within twenty-four (24) hours of receipt of the petition. In the event that the Court does not do so, the petition is deemed granted by operation of law under the Act.

(i) MAINTAINING PETITIONS AND SUBSEQUENT FILINGS UNDER SEAL

The petition and subsequent filings must be maintained under seal pending further order of the Court. Upon the granting of a petition, the Secretary shall promptly notify the Court of the appointment of the receiver. The Court shall then issue an Order to Show Cause to the Secretary as to why the proceedings, or any part thereof, shall not be unsealed.

(j) STAY PENDING APPEAL

The decision of the Court on a petition shall not be subject to a stay or injunction pending appeal.

(k) EFFECT OF FRCP 6

The time periods found in subsections (b) and (h) of this Rule are not subject to Rule 6 of the Federal Rules of Civil Procedure.

FOR THE COURT:

Royce C. Lamberth
Chief Judge